

ORDINANCE NO. 2021-XX

**AN URGENCY ORDINANCE OF THE CITY OF COSTA MESA
REPEALING ORDINANCE NO. 2020-11 RELATING TO A
TEMPORARY MORATORIUM ON EVICTING TENANTS,
AND DECLARING THE ORDINANCE TO BE AN
EMERGENCY MEASURE TO TAKE EFFECT IMMEDIATELY
UPON ADOPTION**

WHEREAS, on March 4, 2020, the Governor declared a State of Emergency in California due to the threat of Coronavirus Disease 2019 (“COVID-19”). On February 26, 2020, the Orange County Board of Supervisors and Department of Public Health declared a public health emergency in Orange County due to COVID-19. On March 12, 2020, pursuant to Proclamation No. 2020-01, the City Manager did proclaim the existence of a local emergency pursuant to Title 6 of the Costa Mesa Municipal Code, and on March 13, 2020 the City Council pursuant to Resolution No. 2020- 9 did ratify Emergency Proclamation No. 2020-01. Due to directives from federal, state, and local health officials, residents have been ordered to avoid public gatherings and stay at home to prevent the spread of this disease.

WHEREAS, on March 16, 2020, the Governor issued Executive Order N-28-20 (the “Original Order”), which suspends any state law that would preempt or otherwise restrict the city’s exercise of its police power to impose substantive limitations on evictions based on nonpayment of rent resulting from the impacts of COVID-19.

WHEREAS, on April 21, 2020, the City Council did adopt Ordinance No. 2020-11 that established a temporary moratorium on the eviction of residential or commercial tenants who are unable to pay rent due to the impacts of COVID-19.

WHEREAS, on May 29, 2020 the Governor issued Executive Order N-66-20 which, among other things, extended the term of the Original Order through July 28, 2020.

WHEREAS, on June 30, 2020, the Governor issued Executive Order N-71-20 which, among other things, further extended the term of the Original Order through September 30, 2020.

WHEREAS, on August 31, 2020, the legislature adopted the Tenant, Homeowner, and Small Landlord Relief and Stabilization Act of 2020 (A.B. 3088), which, among other things, preempts cities from enacting new residential tenant protections until January 31, 2021.

WHEREAS, September 24, 2020, the Governor issued Executive Order N-80-20 which, among other things, further extended the term of the Original Order through March 31, 2021, but with respect to commercial evictions only.

WHEREAS, effective January 30, 2021, the legislature adopted Senate Bill 91 to extend A.B. 3088 through June 30, 2021, and to establish a state rental assistance program. The extension of A.B. 3088, among other things, continues the preemption against cities from enacting residential tenant protections until June 30, 2021.

WHEREAS, on March 4, 2021, the Governor issued Executive Order N-03-21 which, among other things, further extended the term of the Original Order through June 30, 2021, with respect to commercial evictions only.

WHEREAS, in adopting this Ordinance, it is the intent of the City Council that the commencement of the 120 day period for commercial tenants to repay rent set forth in Ordinance No. 2020-11 shall be counted from effective date of this Ordinance and not the expiration of the Executive Order N-28-20, as extended.

WHEREAS, the City Council has the authority to adopt this ordinance under Government Code Section 8630, and also its authority under California Constitution Art XI, section 7, and pursuant to the Governor's Orders N-28-20, N-66-20, N-71-20, N-80-20 and N-03-21.

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF COSTA MESA DOES ORDAIN AS FOLLOWS:

SECTION 1. Repeal of an ordinance relating to a temporary moratorium on evicting tenants. Ordinance No. 2020-11 is hereby repealed in its entirety, provided, however that the repayment provisions of Section 1.G. relating to the time for repayment of rent shall remain in force for the period of 120 days after the effective date of this ordinance.

SECTION 2. Emergency Declaration/Effective Date. The City Council declares this ordinance to be an emergency measure, to take effect immediately upon adoption pursuant to California Government Code section 36934. The facts constituting the emergency are as follows: The

economic impact to commercial landlords from the COVID-19 state of emergency has been devastating. However, as re-opening of the economy expands, commercial tenants are now in a better position to repay past due rent, as well as to apply for available federal, state, and local aid to help defray the cost thereof. To protect the public health, safety, and welfare, the City desires to repeal the Ordinances now to enable commercial landlords to begin receiving past due rent within 120 days from the effective date of this Ordinance.

SECTION 3. Repayment of Rent Required. Nothing in this Ordinance shall relieve a tenant of liability for any unpaid rent.

SECTION 4. Severability. If any portion of this ordinance is found to be unenforceable, each such provision shall be severed, and all remaining portions of this ordinance shall be enforced to the maximum extent legally permissible.

SECTION 5. Certification. The City Clerk shall certify to the passage and adoption of this ordinance as required by law.

[continued on next page]

PASSED, APPROVED AND ADOPTED this ___th day of _____ 2021.

John Stephens, Mayor

ATTEST:

Brenda Green, City Clerk

APPROVED AS TO FORM

Kimberly Hall Barlow, City Attorney

STATE OF CALIFORNIA)
COUNTY OF ORANGE) ss
CITY OF COSTA MESA)

I, **BRENDA GREEN**, City Clerk of the City of Costa Mesa, DO HEREBY CERTIFY that the above and foregoing Urgency Ordinance No. 2020-__ was duly adopted at a special meeting of the City Council of the City of Costa Mesa held on the 24th day of March, 2020, by the following roll call vote, to wit:

AYES: COUNCILMEMBERS:

NOES: COUNCILMEMBERS:

ABSENT: COUNCILMEMBERS:

IN WITNESS WHEREOF, I have hereby set my hand and affixed the seal of the City of Costa Mesa this 24th day of March, 2020.

Brenda Green, City Clerk